

# In the Supreme Court of the State of Alaska

**People of Planet Earth and Louis  
Holger Eklund,**

Appellant,

v.

**United States of America, et al.,  
Appellees.**

Supreme Court No. **S-18236**

## **Order**

Vacating and Remanding to  
Superior Court

Date of Order: **5/25/2022**

Trial Court Case No. **2KB-19-00194CI**

Before: Winfree, Chief Justice, Maassen, Carney, Borghesan, and  
Henderson, Justices

A self-represented litigant who was incarcerated filed a complaint against the United States and various federal officials on behalf of himself and the “People of Planet Earth.”<sup>1</sup> The litigant sought a filing fee waiver under the authority of AS 09.19.010, which applies to claims by inmates against the State and permits waiver only in “exceptional circumstances.”<sup>2</sup> The superior court denied the requested fee waiver, finding no extraordinary circumstances to justify the fee waiver. The case lay dormant for almost two years; the superior court then dismissed it without prejudice for

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<sup>1</sup> We preemptively note that, notwithstanding the caption in this case, the named individual plaintiff may not bring a class action on behalf of all people living on planet Earth. *See* Alaska R. Civ. P. 23.

<sup>2</sup> AS 09.19.010(a) (“A prisoner may not commence litigation against the state unless the prisoner has paid full filing fees to the court . . . except that the court may exempt a prisoner from paying part of those fees if the court finds exceptional circumstances as described in this section.”).

failure to pay the filing fee, citing Alaska Administrative Rule 9(f)(4).<sup>3</sup> The litigant appeals, arguing that Administrative Rule 9(f)(4) is unconstitutional. We decline to address these constitutional arguments.

Instead we vacate the dismissal of his complaint and remand for further proceedings. Because the litigant has not sued any state officials, AS 09.19.010 does not apply to his complaint. The general fee waiver provisions of Administrative Rules 9(f)(1) and 10 do. These rules do not require a litigant to show extraordinary circumstances to merit a fee waiver; rather, a fee waiver is justified upon a showing of indigence alone.<sup>4</sup>

Although application of the wrong rule was in part the litigant's fault because he used the wrong form to request a fee waiver, it was nevertheless plain error to apply the statute governing inmate litigation against state officials when no state officials were sued.<sup>5</sup> Moreover, when "a self-represented litigant is obviously attempting

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<sup>3</sup> Alaska Admin. R. 9(f)(4) ("[A] civil case or proceeding will be dismissed without prejudice and without notice if, within 30 days from the date of filing, the filing fee has not been paid or a fee waiver has not been requested.").

<sup>4</sup> See Alaska Admin. R. 9(f)(1) ("No filing, writ, certifying, or copying fee will be charged to any person determined to be indigent under Administrative Rule 10."); Alaska Admin. R. 10 (describing process for requesting fee waiver and providing that if person files "an indigency statement on a form prescribed by the administrative director of courts," the "clerk or magistrate judge shall accept the pleadings for filing without payment of the filing fee").

<sup>5</sup> *Broeckel v. State, Dep't of Corr.*, 941 P.2d 893, 897 (Alaska 1997) ("Plain error exists where an obvious mistake has been made which creates a high likelihood that injustice has resulted." (internal quotation marks omitted)).

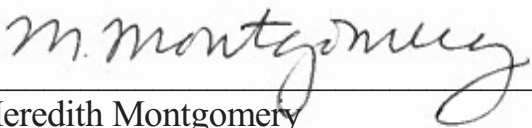
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to accomplish a discrete action and his procedural failing is the result of ‘a lack of familiarity with the rules rather than gross neglect or lack of good faith,’ the superior court retains an obligation to inform that litigant of the proper procedure for that action.”<sup>6</sup> Regardless of the seeming merit of the litigant’s claims, the superior court should have directed this self-represented litigant to the proper court rule and form to request a fee waiver.

The judgment of dismissal is VACATED, and the case is REMANDED for further proceedings.

Entered at the direction of the court.

Clerk of the Appellate Courts

  
Meredith Montgomery

cc: Trial Court Clerk - Kotzebue  
Trial Court Clerk - Utqiagvik

Distribution:

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Eklund, Louis Holger

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<sup>6</sup> *Bush v. Elkins*, 342 P.3d 1245, 1253 (Alaska 2015) (footnote omitted) (quotation omitted).